

EXHIBIT 2

From: Lawrence Jarvis
Sent: Saturday, August 27, 2022 9:34 AM
To: Jeff Kubiak
Cc: FRService-Apple-EscapeX
Subject: RE: EscapeX IP LLC v. Apple Inc., USDC Western District of Texas (Case No. 6:22-cv-00427)
Attachments: 2022-07-27_Response Ltr to EscapeX re New Claim Chart.pdf; Proposed EscapeX v. Apple - Joint Stipulation re Claims of W and II.docx; 2022-06-01 Ltr to EscapeX Counsel fr Elacqua re EscapeX IP LLC v Apple Inc.pdf

Hi Jeff,

While we are disappointed your client decided to proceed with accusing prior art features within Apple Music (e.g., features found in iTunes) against your recommendation, we appreciate your candor and your client's agreement that "Apple does not infringe at least claim 1 and its dependencies" during our July 21, 2022 meet and confer. We again strongly encourage EscapeX to dismiss its case against Apple with prejudice in view of our two letters (re-attached) and our email correspondence that clearly demonstrates that all of EscapeX's infringement allegations against Apple Music are indeed accusing prior art features within Apple Music, such as iTunes Radio:

Play Apple Music radio in Music on Mac

Apple Music radio features three world-class radio stations (Apple Music 1, Apple Music Hits, and Apple Music Country), as well as a collection of stations based on different genres. These stations provide a great way to explore and enjoy new music or keep up with your favorites.

You can also create your own custom stations, based on your pick of artist, song, or genre.

In addition to radio, you can play Apple Music TV, a free, 24-hour curated livestream of popular new music videos that includes exclusive premieres, music video blocks, live shows and events, chart countdowns, and more.

Note: You must be signed in with your [Apple ID](#), but you don't need to [subscribe to Apple Music](#) to play live Apple Music radio and Apple Music TV.

<<https://support.apple.com/guide/music/mus0456fe22c/1.2/mac/12.0>>

The reference describes generating one or more album parameters used to change the dynamic album based on the one or more commands.

- **dynamic album = Apple Music radio**

EscapeX Exhibit A at 4.

All your devices in the mix.

You can listen to iTunes Radio on your iPhone, iPad, iPod touch, Mac, PC, and Apple TV.^{*} All your stations are stored in iCloud, so if you stop playing a station on one device, you can pick it up on another — no syncing required. And no matter what device you listen on, your stations become more personalized with every song you play.



iTunes Radio is ad-free with iTunes Match.

Instead of hearing the occasional ad, you can listen to iTunes Radio completely ad-free when you subscribe to iTunes Match. And iTunes Match stores all your music in iCloud — even songs you've imported from CDs or purchased somewhere other than iTunes. So iTunes Radio can use your entire music collection to make your stations even more personalized.

[Learn more about iTunes Match >](#)

<http://web.archive.org/web/20130929033218/http://www.apple.com/itunes/itunes-radio/> (disclosing public availability of all of the accused features in 2013); see also <https://techcrunch.com/2013/09/18/apple-releases-ios-7-ready-itunes-11-1-with-itunes-radio-podcast-stations-and-more-for-mac-and-pc/> (accused features released in no later than September 2013); .

What is iTunes Radio?

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In brief, it's a more elegant version of Spotify/Pandora that offers both a la carte music downloads alongside all you can eat access to the entire iTunes catalog. iTunes Radio will let you stream whatever music you wish, and will also include radio stations, artist playlists and more.

The service will deliver personalized stations based on your listening history and past iTunes purchases, allows you to build playlists up from what you are listening to, and has Siri support so you can order the service to give you some decent tunes.

One element to the service that doesn't sound so good is AdAge's claim that: "iTunes Radio will not allow users to search and play a song on-demand." I contacted Apple to confirm or deny this, but the company spokesperson I communicated with declined to comment. I do hope AdAge is incorrect in the claim.

<https://www.computerworld.com/article/2474586/apple-s-itunes-radio-reminds-us-that-music-is-a-weapon.html> (accused features present in iTunes)

Again, should EscapeX persist in asserting any claim of the '113 Patent against Apple, Apple will be forced to seek sanctions and all remedies available by law pursuant to at least Fed. R. Civ. P. 11 and 35 U.S.C. § 285.

Separately, in view of your agreement to jointly stipulate dismissal without prejudice to EscapeX's willful and indirect infringement allegations, attached is a proposed joint stipulation. Could you also send us a draft of your amended complaint?

Thanks,
Lawrence

Lawrence Jarvis :: Fish & Richardson P.C. :: 404 879 7238

From: Jeff Kubiak <jkubiak@rameyfirm.com>

Sent: Thursday, July 21, 2022 4:26 PM

To: Lawrence Jarvis <jarvis@fr.com>; Betty Chen <bchen@fr.com>

Subject: Re: EscapeX IP LLC v. Apple Inc., USDC Western District of Texas (Case No. 6:22-cv-00427)

Betty, Lawrence:

It was good to talk to you this afternoon.

As a quick recap:

Escapex agrees that Apple does not infringe at least claim 1 and its dependencies;
Escapex and Apple agree to a 45 day extension of time for Apple to answer the complaint;
Escapex is providing to Apple a draft claim chart with respect to claim 27 of the '113 patent; and
We anticipate discussing claim 27 next Thursday at 3 central.

Let me know if I missed something or misstated an item.

Jeff

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From: Lawrence Jarvis <jarvis@fr.com>
Sent: Wednesday, June 29, 2022 2:48 PM
To: Jeff Kubiak <jkubiak@rameyfirm.com>
Cc: Lawrence Jarvis <jarvis@fr.com>; Benjamin C. Elacqua <Elacqua@fr.com>
Subject: FW: EscapeX IP LLC v. Apple Inc., USDC Western District of Texas (Case No. 6:22-cv-00427)

Hi Jeff,

It was a good speaking with you earlier. We have approval of the 30-day extension from our client. Please get the extension on file when you all can. Attached is our original letter along with the email in which it was sent. Below is the email thread where we were seeking a response to our letter and our response (immediately below) to the new claim chart Bill circulated on this past Monday.

Thanks,
 Lawrence

Lawrence Jarvis :: Fish & Richardson P.C. :: 404 879 7238

From: Benjamin C. Elacqua <Elacqua@fr.com>
Sent: Tuesday, June 28, 2022 8:07 AM
To: wramey@rameyfirm.com
Cc: ktalanov@rameyfirm.com; FRService-Apple-EscapeX <FRService-Apple-EscapeX@fr.com>
Subject: Re: EscapeX IP LLC v. Apple Inc., USDC Western District of Texas (Case No. 6:22-cv-00427)
Importance: High

Bill - I'm not sure what that means but I was only trying to get a response after many failed attempts. Your claim charts accuse the prior art. The old one attached to your complaint and the new one attached to your email. The exact screen you are pointing to in the chart was in the prior art versions of iTunes. I've talked to the Apple engineer who has been on the iTunes development team for a long time and he has confirmed that the accused Smart Playlist features dates back to at least iTunes version 3 with all potentially relevant enhancements dating to at least iTunes version 9.2.1 (or at least MacOS Version OS X Lion). Your new chart continues to accuse the prior art Smart Playlist feature. Your new chart also accuses another prior art feature, which is iTunes compatibility with Tunecore for music distribution. iTunes was compatible with Tunecore to enable artist specific music distribution years before the priority date of the asserted patent. *See*, e.g., <https://www.tunecore.com/blog/2012/10/10-tips-for-getting-featured-on-itunes.html>; <https://web.archive.org/web/20070628230105/http://www.tunecore.com/>; <https://www.tunecore.com/blog/2013/04/new-daily-itunes-trend-reports-what-they-are-5-ways-to-use-them.html>. As such, all of the features you accuse in your new chart are still in the prior art. Your citing of disclosures that postdate the asserted patent does not negate the reality that each of these accused features are prior art. Thus, we still strongly advise you to drop this case.

As I mentioned in my prior email, we need to have a lead counsel meet and confer this week on my letter and a Motion to Dismiss we intend to file next week. What is your availability to meet and confer this week? I am available from 9-12 CT tomorrow.

-Ben

On Jun 27, 2022, at 10:47 AM, William Ramey <wramey@rameyfirm.com> wrote:

Hi Ben,

No need to go postal.

We received your letter of June 1. We have been investigating the veracity of your allegations. After our review, we conclude that our complaint is proper.

We have attached an updated claim chart for your review. Quite clearly, the product was not in the prior art.

Please let us know when you would like to discuss.

Bill

William P. Ramey, III
 Ramey LLP
 5020 Montrose Bvd., Suite 800
 Houston, Texas 77006
 (713) 426-3923
 (832) 900-4941 (facsimile)

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From: Benjamin C. Elacqua <Elacqua@fr.com>
Sent: Monday, June 27, 2022 10:30 AM
To: William Ramey <wramey@rameyfirm.com>
Cc: Kyril Talanov <ktalanov@rameyfirm.com>; FRService-Apple-EscapeX <FRService-Apple-EscapeX@fr.com>
Subject: Re: EscapeX IP LLC v. Apple Inc., USDC Western District of Texas (Case No. 6:22-cv-00427)

Counsel for EscapeX - I'm not sure what else I can do to get your attention on this case. You have literally accused the exact prior art in this case and need to drop the case per my letter. Your refusal to respond to my letter, emails and calls is not acceptable.

We need to have a lead counsel meet and confer this week on my letter and a Motion to Dismiss we intend to file next week. I'm available on the 28th at 2:30-4pm and the 29th from 9-12 CT.

Thanks, Ben

On Jun 23, 2022, at 10:00 AM, Benjamin C. Elacqua <Elacqua@fr.com> wrote:

William or Kyril - is someone going to respond or give me a call? I've sent you a letter, multiple emails, a couple phone calls.

Thanks, Ben

On Jun 21, 2022, at 11:20 AM, Benjamin C. Elacqua <Elacqua@fr.com> wrote:

William - checking in on this. My letter identified some points that we need a response to. I'm available to discuss as well.

Thanks, Ben

Benjamin Elacqua :: Principal
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Houston, TX 77010
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elacqua@fr.com

On Jun 15, 2022, at 7:00 PM, William Ramey <wramey@rameyfirm.com> wrote:

[This email originated outside of F&R.]

Next week. I am out of town.

William P. Ramey, III
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From: Benjamin C. Elacqua <Elacqua@fr.com>
Sent: Wednesday, June 15, 2022 5:57:20 PM
To: William Ramey <wramey@rameyfirm.com>; Kyril Talanov <ktalanov@rameyfirm.com>
Cc: FRService-Apple-EscapeX <FRService-Apple-EscapeX@fr.com>
Subject: Re: EscapeX IP LLC v. Apple Inc., USDC Western District of Texas (Case No. 6:22-cv-00427)

Counsel,

Is someone going to call or respond to my letter?

Ben

> On Jun 9, 2022, at 2:53 PM, Benjamin C. Elacqua <Elacqua@fr.com> wrote:

>

> Counsel,

>

> I tried calling your office a couple times but got voicemails. Please give me a call so we can discuss the letter I sent last week.

>

> Thanks, Ben

>

>

> Benjamin Elacqua :: Principal

> Fish & Richardson P.C.

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> Houston, TX 77010

> 713.654.5300

> elacqua@fr.com

>

>

>

>> On Jun 1, 2022, at 4:32 PM, Vivian Lopez <Lopez@fr.com> wrote:

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>> <2022-06-01 Ltr to EscapeX Counsel fr Elacqua re EscapeX IP LLC v Apple Inc.pdf>

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<2022-06-27 UPDATED INFRINGEMENT CHARTS.pdf>

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